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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,957	01/20/2004	Michel Doucet	11348-0009-999	3881
20583	7590	09/23/2005	EXAMINER	
JONES DAY 222 EAST 41ST ST NEW YORK, NY 10017				PRICE, CARL D
		ART UNIT		PAPER NUMBER
		3749		

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/761,957	DOUCET ET AL. <i>Tak</i>
	Examiner CARL D. PRICE	Art Unit 3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06/30/2005 (RCE FILED).  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 49-60 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 49-60 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/30/2005 has been entered.

### **Response to Arguments**

Claims 1-48 have been cancelled.

Applicant's arguments with respect to newly submitted claims 49-60 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that claim 49 and claims dependent thereon "are believed to be patentable over the prior art of record, because the Hattori reference does not disclose a lighter having a fuel reservoir with top wall 'being reinforced by a ring engaged in a tight-fit manner in the annular groove to compress the annular wall against said tubular element and to provide sealing between said well and said tubular element only by contact between the ring and the annular wall'." In this regard applicant has amended the last paragraph of claim 49 to include the following language:

**"wherein the top wall forms an annular wall between the groove and the well, the top wall being reinforced by a ring engaged in a tight-fit manner in the annular groove to compress the annular wall against the tubular element and to provide sealing between the well and the tubular element only by contact between the ring and the annular wall."**

The newly cited prior art references of **EP 0 122 500 (NITTA)** and **WO 91/13688 (RUFF)** are now relied on to address the combination of limitations now set forth in the claims. In particular, these prior art references, in addition to teachings in **EP000671589A1 (HATTORI)** itself (see column 6, line 44), are relied on to teach that it would have been obvious to a person having ordinary skill in the art at the time of the applicant's invention to rely on press fitting techniques to provide tight-fit sealing between various plastic valve, reservoir and nozzle components of dispensers. That is, "only by contact" between components. See below.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

*This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).*

**Claims 49-60: Rejected under 35 U.S.C. 103(a)**

Claims 49-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over **EP0671589 (HATTORI)** in view of **JP 02-290270, EP 0 122 500 (NITTA)** and **WO 91/13688 (RUFF)**.

**EP0671589 (HATTORI)** shows and discloses (see figure 8) a gas cigarette lighter comprising:

- a fuel reservoir (1) made of a polymer material;
- the reservoir having a top wall (not referenced), the top wall having an annular groove and an annular wall (not referenced);
- a well (not referenced), the well passing through the top wall;
- a gas dispensing device (5) including a tubular element, the tubular element being disposed in the well;
- a ring (8), the ring engaging the annular groove;
- wherein the annular groove surrounds the well, and at least a portion of the annular wall is reinforced by the ring (8);
- wherein the top wall (not referenced) forms the annular wall between the annular groove and the well, and the annular wall is clamped between the ring and the tubular element;
- wherein the annular groove has a first annular face facing radially outwards, and the ring has a first annular face facing inwards, and the first annular face and the first ring face are engaged in tight fitting manner with one another;
- wherein the annular wall has a second annular face facing radially inwards, and the ring has a second annular face facing radially outwards, and the second annular groove face and the second ring face are not in engaged in tight-fitting manner with one another;
- wherein the well, the tubular element the ring and the groove are in the shape of a cylinder that is circularly symmetrical, the groove having a certain inside diameter, and the ring having an inside diameter that is no larger than the inside diameter of the groove, the well having a certain diameter and the tubular element having a certain outside diameter that is no smaller than the diameter of the well;
- wherein the groove has a certain outside diameter, and the ring has an outside diameter that is no larger than the outside diameter of the groove;

- wherein the lighter is provided with a head (not referenced) integrally formed with and overlying the reservoir,
  - o the head having an ignition device (11); and
  - o a device (9) for controlling the gas dispensing device;
- the tubular element (5) is engaged by force in a hole provided in the head;
- wherein the gas dispensing device includes a regulating device (2) and a valve (4) that are received inside the tubular element;
- wherein the tubular element is made of metal and has an internal shoulder (3) against which a micro-porous disk (not referenced) is held by a retaining ring (2), the tubular element having one end crimped against the retaining ring;
- wherein the reservoir has a side wall against which the top wall is bonded (i. e - integrally formed).

**EP0671589 (HATTORI)** shows and discloses the invention substantially as set forth in the claims with possible exception of the lighter tank:

- being made from rigid amorphous polymer material selected from at least one of the group consisting of ABSs and SANs;
- the ring being part of the head of the lighter; and
- the head and the ring are formed as a single piece made of a semi-crystalline polymer material.

**JP 02-290270** teaches, from the same fuel tank field of endeavor as **EP0671589 (HATTORI)** and that of the claimed invention, forming an aerosol container having gas barrier properties from a rigid amorphous acrylonitrile polymer material.

**EP 0 122 500 (NITTA)** and **WO 91/13688 (RUFF)**, as well as **EP000671589A1 (HATTORI)** itself, teach from the same fuel tank field as that of the claimed invention, using press fitting techniques alone to provide tight-fit sealing between various plastic valve, reservoir and nozzle components of dispensers.

See page 8, line 19 of **EP 0 122 500 (NITTA)**, which states:

- “when the nozzle plug member 2 is pressure-fitted into the nozzle body 1”.

See the English language abstract of **WO 91/13688 (RUFF)**, which states:

- “The other end (20) of eh shaft, which is fastened only in a short inner sheathe (17) by press fitting”.

See column 7, line 32, of **EP000671589A1 (HATTORI)**, which states:

- “the second valve 90 is provided with press-fitting portion 91”.

In regard to claims 49-60, for the purpose of forming an aerosol container having gas barrier properties, for example, it would have been obvious to a person having ordinary skill in the art to modify the container of EP0671589 (HATTORI) to be made from a rigid amorphous acrylonitrile polymer material, in view of the teaching of JP 02-290270.

Also, in regard to claims 49-60, for the purpose of providing a suitable tight-fit sealing between various plastic valve, reservoir and nozzle components, it would have been obvious to a person having ordinary skill in the art to modify the **EP000671589A1 (HATTORI)** ring to engage in a tight-fit manner in the annular groove and thereby to compress the annular wall against the tubular element and to provide sealing between the well and the tubular element only by contact between the ring and the annular wall, in view of the teachings of **EP 0 122 500 (NITTA)**, **WO 91/13688 (RUFF)** or **EP000671589A1 (HATTORI)**.

And, in regard to claims 54-60, since the desired properties of the tank material, and the manner of attaching the ring to the head, would depend on numerous design concerns such as the type of fuel used, the size of the container, the relative sizes of each of the lighter components, etc. to form the container/tank of EP0671589 (HATTORI) from ABS or SAN, semi-crystalline material, and to integrally form the head, top and/or ring can be viewed as nothing more than a

mere matter of choice in design absent the showing of any new or unexpected results produced therefrom over the prior art of record.

**Conclusion**

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is (571) 272-4880. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CARL D. PRICE  
Primary Examiner  
Art Unit 3749

CP